

Section 16.05 Preparation for a Layoff (Reduction in Force) - Contract
Last Update: 12/13

A. Definition of a Layoff

A layoff occurs whenever the employer permanently reduces the number of permanent employees in a class, or the number of scheduled hours worked by permanent employees in a class, except as provided in DAS-HRE subrule [11 IAC 60.3\(1\)](#).

If the reassignment of an employee would result in the loss of merit system coverage, an appointing authority may not reassign that employee without the employee's written consent regarding the change in merit system coverage. A copy of the consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with the administrative rules or the applicable collective bargaining agreement.

B. Planning a Permanent Layoff

1. Determine a proposed layoff date. Department planning activities should begin at least 8 weeks prior to the proposed layoff date. More time may be required for layoffs of a complex nature. Your Personnel Officer should be consulted throughout the planning phase.
2. Listed below are some basic steps to follow when planning a layoff (this information is discussed in more detail in the pages that follow):
 - a. Determine the affected job classes and number of positions to be eliminated. The extent of the layoff is based on various factors including, but not limited to: 1) the level of department appropriations, 2) workload levels, 3) reorganizing, reducing, or eliminating program areas, 4) legislative mandates related to department program activities, or 5) the number of temporary and probationary employees to be terminated.
 - b. Determine the layoff unit. Layoffs are designated by organizational unit (also called layoff unit, employing unit, or RIF unit), as defined by the collective bargaining agreements.
 - c. Calculate seniority of employees in affected job classes. Rank employees by seniority order in the affected job classes within the layoff unit.
 - d. Establish the initial layoff line for each affected class within the layoff unit. An initial layoff line is established at the point where the number of employees with the least seniority (unless affected by special skills or ability) matches the number of positions to be reduced. Employees below the layoff line will be laid off unless they bump in lieu of layoff or find other employment prior to the layoff date.

NOTE: The layoff line is adjusted when: 1) a position above the initial layoff line is vacated allowing the line to be adjusted so that one less employee will be laid off, or 2) an employee below the initial line is exempted due to special skills/abilities resulting in an employee who initially was above the layoff line being laid off, or 3) **(IUP only)** the least senior employee who is otherwise unaffected by the layoff and who has, within the last 12 months, received a less than competent rating on their most recent performance evaluation, a disciplinary suspension within the last 12 months, or a written reprimand within the last 6 months, may be laid off before the next least senior employee.

- e. Develop and submit the proposed layoff plan to DAS-HRE for review and approval. The plan will then be forwarded by DAS to the Department of Management (DOM) and the Governor's Office for final approval. Allow a minimum of seven to ten days for this approval process. The layoff plan *must* be approved prior to implementation.

- f. Develop *tentative* assignments for employees in positions above the layoff line. It is the appointing authority's right to determine the job duties and specific positions to which employees will be assigned. Management should attempt to assign job duties so that positions will not need to be reclassified.
- g. Identify *tentative* employment options for employees below the proposed layoff line.
 - 1) Determine the bumping rights of employees who are initially affected by the layoff. Also, identify other employees within the layoff unit who may be impacted by bumping.
 - 2) Identify vacancies that have cleared transfer and recall provisions to which employees may voluntarily transfer, demote, or promote in accordance with applicable contract language or DAS-HRE rules.

NOTE: *Tentative* assignments and employment options should not be discussed with employees prior to final approval of the layoff plan.

- h. Terminate all non-permanent employees in the affected classes in the layoff unit prior to the layoff. The AFSCME, UE/IUP, and SPOC agreements and the DAS-HRE rules require that temporary (including provisional and *trainee*), and probationary employees in a class identified for layoff be terminated prior to the layoff of permanent full-time or permanent part-time employees. Contact your Personnel Officer before layoff when temporary employees, contracted employees and/or volunteers are involved.

An employee on military leave shall not be terminated as a probationary employee if the time the employee worked added to the military leave time equals or exceeds the required probationary period. In this case, the employee will receive continuous service credit as if still on the job. If the class the employee occupies is affected by layoff, the employee will be listed in seniority order with other employees in the class. If the employee's position is affected by a layoff, the employee will receive the same notice of layoff, and have the same layoff rights, as any other employee affected by the layoff.

If the combined period of time worked and military leave does not equal or exceed the required probationary period, the employee will be considered a probationary employee and must be terminated if the class the employee occupies is affected by layoff, prior to the layoff of any permanent employees.

- i. Employees on Workers' Compensation, FMLA, donated leave or other leave are treated in the same manner and have the same rights as employees who are on the job.
- j. Departments must notify employees who are on leave that their positions are affected by the layoff. Departments must include applicable bumping and recall rights in the notification.
- k. Contract covered employees exempt from the merit system are subject to the provisions of the applicable collective bargaining agreement.

C. Drafting the Layoff Plan

- 1. All layoff plans must be approved by the DAS-HRE Chief Operating Officer and the DAS Director, the DOM Director and the Governor's Office prior to implementation. Plan templates are found in the forms section of this chapter. If a layoff(s) results in the closing of a facility or work location or if a layoff will affect public access to services, a separate letter detailing the closing and/or the effect on access of the public to services must be included with the plan.
- 2. Layoff plans shall include the following:
 - a. The name of the agency/department initiating a layoff.

- b. If the layoff involves employees covered by a collective bargaining agreement, specify which agreement.
 - c. The effective date and reason(s) for the layoff (budgetary, lack of work, etc.).
 - d. The designated layoff unit(s).
 - e. The projected savings.
 - f. The number of employees to be laid off from each class within the layoff unit as shown on a list of employees in seniority order with a layoff line drawn to indicate the employees to be laid off.
 - g. A list of employees in seniority order. Draw a line indicating the number of employees to be laid off.
 - h. Any special skills exemptions for permanent employees as permitted by the collective bargaining agreements and the justification for each position for which an exemption is requested.
 - i. Current Span of Control and span following proposed layoff.
 - j. Services impacted by the layoff.
3. It is not necessary to detail the effects of bumping that may occur within the layoff unit. The layoff plan should only address positions and classes initially impacted by the layoff.

D. Notification to Labor Organizations and Employees

1. The AFSCME agreement requires notice to the Union at least 60 calendar days in advance of any anticipated layoffs. DAS-HRE provides this notification to all three unions annually.

The AFSCME agreement requires that when a decision is made to contract or subcontract work, which would result in the layoff of bargaining unit members, the State agrees to a notification and discussion with the local union not less than 60 calendar days in advance of implementation.

The UE/IUP agreement requires a notice to and a meeting with union representatives prior to contracting out work that will lead to layoffs of Correctional Counselors.

2. Departments must notify all initially affected employees in the layoff unit once the layoff plan has been approved by the Governor's Office. Employees must be notified individually in writing at least 20 workdays (20 calendar days for SPOC covered employees) prior to the effective date of the layoff unless budget limitations require a lesser period of notice. Employees who are subsequently impacted by bumping must also receive written notification 20 workdays prior to the effective date of layoff.
3. Notification letters to employees shall be given directly to employees with an acknowledgement of receipt signed and dated by the employee. If the employee refuses to sign the acknowledgement, the supervisor will note that refusal on the letter, sign and date the letter, and place it in the employee's personnel file.

If an employee is not at work on the day that notice is to be given and has not designated someone else to receive notification, every reasonable effort must be made to locate the employee in person. If unable to contact the employee, in order to ensure notice, it may be necessary to send notice via certified mail, return receipt requested. This will ensure that the notice requirement is properly documented. Notice via certified mail may delay implementation of the reduction in force as it pertains to the unavailable employee(s), since the notice is only effective upon receipt by the employee, or return of the notice by the Postal Service. A copy of

the documentation and layoff letter must be placed in the employee's file. After satisfying the notice requirement, the layoff shall proceed.

4. The notification letter shall contain the effective date and reason(s) for the layoff, the employee's bumping options, and recall rights. A sample notification letter is found in the forms section of this chapter.
5. Bumping options should be specific in terms of the position(s) and location(s). If the department is unable to specify the position(s) in the original notice, a subsequent notice must be sent to the employee after this is determined. It is not necessary, however, to give another 20 days notice if merely advising employees of locations. (Examples of bumping are found in section 16.50.)
6. Employees have five calendar days from the receipt of each notice to advise the department in writing of their election to bump, accept the position assignment, or be laid off.
7. If an employee receives a layoff notice and then decides to retire, the retirement will be approved if the date of retirement is no later than the date of layoff. Employees who retire in lieu of layoff are not entitled to unemployment benefits or recall.
8. A specific notice period is not required in order to terminate probationary or temporary employees before affecting their class by layoff. Departments may give notice, but shall not let probationary employees in affected job classes acquire permanent status.

E. Guidelines on Layoff

1. Individual departments may not enter into side agreements with the unions or employees regarding either layoff or assignment.
2. A retirement or resignation above the layoff line would save the most senior below the layoff line.
3. An employee who accepts another position (other than a bump) prior to the layoff does not have recall rights.
4. Employees who retire prior to or on the layoff date are considered to have retired and not to have been laid off. Such employees are ineligible for recall.

F. Voluntary Layoff

The UE/IUP agreement provides for a one-year unpaid leave of absence for employees who request reduction in force leave. The Department must post an announcement for five calendar days showing the number of UE/IUP employees to be laid off. Employees in the affected job classification series not designated for layoff may request a reduction in force leave no later than the fifth calendar day of posting. The request must be confirmed in writing; the request must be granted; and the volunteer must be on leave for one year before the volunteer is eligible for recall. Reduction in force leave will be granted by seniority in the same class series and layoff unit as the class affected by the layoff. (Article X, Section 4 of the UE/IUP agreement). The number of employees to be laid off is then reduced by the number of leaves granted.

Employees covered by the SPOC agreement may volunteer for layoff for another employee in the same job class. The voluntary layoff shall be for a period of at least one (1) year unless recalled earlier by the department. After the period of voluntary layoff has expired, the employee will be returned to his/her position or one of like nature. If there are no positions available, the layoff procedure will be followed.

Employees covered by the AFSCME agreement may volunteer for layoff with the agreement of the AFSCME Iowa Council 61 President. The most senior volunteer(s) will be accepted.

The AFSCME agreement also provides that employees in a *temporary* layoff unit may volunteer for any part of the temporary layoff with the most senior volunteer(s) being accepted unless the absence of the employee would cause a hardship on operating efficiency. Voluntary temporary layoffs shall be for a minimum of one (1) calendar week, unless the parties agree to a shorter length of time.

G. Reduction in Hours

An employee whose scheduled hours are reduced may accept the reduction in hours, may be laid off, or may exercise applicable bumping rights. Employees who accept a reduction in hours are eligible for all recall rights as if they were laid off. If an employee refuses a reduction in hours, the employee will be laid off with full recall rights.

Note: Reduction in hours of employees exempt from the premium overtime provisions of the federal Fair Labor Standards Act will affect the employees' exemption for overtime purpose through the duration of the period hours are reduced. As such, these employees would be eligible to receive pay at one and one-half the hourly salary for any hours exceeding forty in a workweek during a period of reduction in hours.